

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6978 of 1995

to

FIRST APPEAL No 6987 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DY COLLECTOR

Versus

VIRA HEMA

Appearance:

MR ANAND, SENIOR COUNSEL with MR. LR PUJARI, AGP for Appellant.

MR AB MUNSHI FOR MR AJ PATEL for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 04/09/96

ORAL JUDGEMENT

1. These appeals had been admitted on 29th September, 1995.

2. At the joint request of the learned counsel for the respective parties, these appeals are taken up for final hearing today.

3. These appeals have been filed by the appellant-State under section 54 of the Land Acquisition Act read with section 96 of CPC, challenging the judgment and awards of the Reference Court under section 18 of the said Act.

4. The short facts in these group of appeals are that the lands were acquired by a notification under section 4 of the said Act dated 19th January, 1989, and the lands were situated in the village Kot, taluka-Vijapur District Mahesana.

5. After recording evidence in the group of References, and after appreciating the significance and quality of the different pieces of evidence on record, the Reference Court determined the market value of the acquired lands at Rs.9-50ps. per sq.mt. The appellant-State has filed these appeals for the purpose of obtaining adjudication of the market value at a reduced figure.

6. Learned counsel for the respondent however refers to and relies upon an earlier decision delivered by me by judgment dated 3rd April, 1996, in F.A. No. 1563/95 to F.A. No. 1594/95.

7. It is pertinent to note that in this earlier decision, the notification under section 4(1) was of dated 26th September, 1989 which was about 8 months subsequent to the notification in the instant group of appeals. Moreover, my earlier decision involved the acquisition of lands in the village Fudeda, which a village very close-by to the village Kot in which the lands presently under acquisition are situated. In my earlier decision, I have determined the market value of the lands under acquisition on merits at Rs.12/- per sq.mt.

8. After having considered my earlier decision, the learned counsel for the appellant is unable to contest the submission made by learned counsel for the respondent, that for all practical purposes the said earlier decision would cover the facts of the instant group of appeals, even on merits. The only distinction which could be drawn is that the notification under section 4(1) in the instant group of appeals is about 8 months prior to the notification considered in my earlier decision. Thus, the lands under acquisition in the instant group of appeals could be valued at a very small amount less than Rs.12/- per sq.mt., to make allowance for the appreciation which the lands would have undergone

in the intervening period of 8 months. However, it must also be observed that even if some token deduction is made from Rs.12/per sq.mt. to account for the appreciation in the market value during the period of 8 months, the market value of Rs.12/- per sq.mt. as determined in my earlier decision, cannot be brought down to any figure less than Rs.9-50ps. per sq.mt., as determined by the Reference Court in the present group of appeals.

9. In the premises aforesaid, it must be held that the market value determined by the Reference Court in the present group of appeals at Rs.9-50ps. per sq.mt. is eminently justified, and cannot be interfered with. In the result, these appeals fail and are dismissed with no order as to costs.

10. The appellant is directed to deposit the amount of compensation separately in each of the Land Reference Case in the Reference Court, latest by 10th December, 1996.

11. Direct service permitted.
